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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,529	10/02/2000	Neelakantan Sundaresan	AM9-99-0149	5198
21254	7590	10/30/2003	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			GART, MATTHEW S	
		ART UNIT	PAPER NUMBER	
		3625		

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/676,529	SUNDARESAN, NEELAKANTAN
	Examiner Matthew S Gart	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 October 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-24 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on October 2, 2000 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s) _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Claims 1-24 are pending in the instant application. Claims 1-5 and 7-24 were amended via Paper No. 6. Claims 1 and 22-24 are independent.

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. All of the figures contain improper lines and text, which may affect clarity when reproduced.

Applicant is required to submit a formal correction of the noted defect. Applicant is required to submit drawing corrections promptly. Drawing objections may no longer be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 12-17 and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Bot (PTO-892, Ref U)

Referring to claims 1 and 22-24. Bot discloses a method for conducting electronic commerce, comprising:

- Electronically visiting, by a customer interested in shopping for an item, a comparison shopping site (CompShop), and inquiring about the item and comparative prices thereof (paragraph 4);
- Running, by the CompShop, a query on a plurality of electronic stores carrying the item, and asking for a price of the item (paragraph 4); and
- Selectively determining, by at least one of the plurality of electronic stores functioning as a "smartStore", an offer price of the item and selectively returning one of a static price and a modified price (paragraphs 10, 11 and 12),
- The modified price resulting from the at least one of the plurality of electronic stores learning a best offer price received by the CompShop from all of the plurality of electronic stores (paragraphs 10, 11 and 12).

Referring to claims 2. Bot further discloses a method comprising returning a static price by at least one of the plurality of electronic stores determined not to be the SmartStore (paragraphs 10, 11 and 12).

Referring to claims 3. Bot further discloses a method comprising sending, by the SmartStore, a request to the CompShop asking for comparative prices of the item (paragraphs 10, 11 and 12, "...in other words, every seller will act like an airline with constantly changing pricing and the ability to negotiate. It's auto haggling."); and determining, by the SmartStore, whether an asking offer price is the best offer price that can be offered, wherein if the asking offer price is determined to be a lowest price, then the SmartStore returns its static price (paragraphs 10, 11 and 12).

Referring to claims 4. Bot further discloses a method of comprising:

- If the asking offer price is determined not to be a lowest price, then adjusting, by the smartStore, the price (paragraphs 10, 11 and 12, "...it's auto haggling."); and
- Returning a new price to the CompShop (paragraphs 10, 11 and 12, "...it's auto haggling.").

Referring to claims 5. Bot further discloses a method wherein the at least one of the electronic stores automatically changes the price depending on a customer for the item asking for the price and what the lowest price is as recorded by the CompShop (paragraphs 10, 11 and 12).

Referring to claims 6. Bot further discloses a method comprising maintaining, by the smartStore, a list of comparison-shopping sites (paragraphs 10, 11 and 12).

Referring to claims 7. Bot further discloses a method comprising:

- If a request is made from other than the comparison shopping site, then returning by the smartStore, a static price (paragraphs 10, 11 and 12); and
- If the request for the price is from a CompShop, then submitting by the smartStore a request to the CompShop or another CompShop to get a list of all comparison prices for the item (paragraphs 10, 11 and 12).

Referring to claims 8. Bot further discloses a method comprising when the smartStore obtains the list of all comparison prices, determining whether the smartStore can offer a lowest price (paragraphs 10, 11 and 12).

Referring to claims 12. Bot further discloses a method comprising returning, by the CompShop, the list of prices to the customer (paragraphs 10, 11 and 12).

Referring to claims 13. Bot further discloses a method comprising:

- Selecting, by the customer, based upon prices received, a choice of one of the plurality of electronic stores for providing the item (paragraphs 10, 11 and 12).

Referring to claims 14-15. Bot further discloses a method wherein the item comprises a product and service (paragraph 4).

Referring to claims 16. Bot further discloses a method wherein the best offer price is the lowest offer price (paragraph 13).

Referring to claims 17. Bot further discloses a method wherein the best offer price is the highest offer price (paragraph 13).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bot (PTO-892, Ref U) in view of Reuhl U.S. Patent No. 5,873,069.

Referring to claims 9. Bot discloses a method according to claim 8 as indicated supra. Bot does not expressly disclose a method wherein the smartStore determines whether it can afford to offer a lower price based upon the comparison and its own cost price and required profit margin. Reuhl discloses a method wherein the smartStore determines whether it can afford to offer a lower price based upon the comparison and its own cost price and required profit margin (Reuhl: claim 9). At the time the invention

was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Bot to have included the limitations of Reuhl as discussed above in order to provide purchasing assistance to a buyer by supplying comparison pricing of goods by competitors (Reuhl: column 1, lines 5-15).

Referring to claims 10. Bot in view of Reuhl discloses a method according to claim 9 as indicated supra. Reuhl further discloses a method further comprising if the smartStore can offer a lower price, then returning the lower price to the CompShop (claim 7 and Figure 11). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Bot to have included the limitations of Reuhl as discussed above in order to provide purchasing assistance to a buyer by supplying comparison pricing of goods by competitors (Reuhl: column 1, lines 5-15).

Referring to claims 11. Bot in view of Reuhl discloses a method according to claim 9 as indicated supra. Reuhl further discloses a method comprising if the smartStore cannot offer a lower price, then returning its static price to the CompShop (claim 7 and Figure 11). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Bot to have included the limitations of Reuhl as discussed above in order to provide purchasing assistance to a buyer by supplying comparison pricing of goods by competitors (Reuhl: column 1, lines 5-15).

Referring to claims 18. Bot in view of Reuhl discloses a method according to claim 1 as indicated supra. Bot does not expressly disclose a method comprising

caching, by the CompShop, the prices received from the plurality of electronic stores. Reuhl discloses a method comprising caching, by the CompShop, the prices received from the plurality electronic stores (column 3, lines 28-48). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Bot to have included the limitations of Reuhl as discussed above in order to provide purchasing assistance to a buyer by supplying comparison pricing of goods by competitors (Reuhl: column 1, lines 5-15).

Referring to claims 19. Bot in view of Reuhl discloses a method according to claim 1 as indicated supra. Bot does not expressly disclose a method comprising caching, by the smartStore, a list of prices received from the CompShop. Reuhl discloses a method comprising caching, by the smartStore, a list of prices received from the CompShop (column 3, lines 28-48). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Bot to have included the limitations of Reuhl as discussed above in order to provide purchasing assistance to a buyer by supplying comparison pricing of goods by competitors (Reuhl: column 1, lines 5-15).

Referring to claims 20. Bot in view of Reuhl discloses a method according to claim 1 as indicated supra. Bot does not expressly disclose a method wherein the smartStore selectively visits the CompShop such that information from the CompShop is cached by the smartStore for comparison with a price request occurring between visits to the CompShop. Reuhl discloses a method wherein the smartStore selectively visits the CompShop such that information from the CompShop is cached by the

smartStore for comparison with a price request occurring between visits to the CompShop (column 3, lines 28-48). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Bot to have included the limitations of Reuhl as discussed above in order to provide purchasing assistance to a buyer by supplying comparison pricing of goods by competitors (Reuhl: column 1, lines 5-15).

Referring to claims 21. Bot in view of Reuhl discloses a method according to claim 1 as indicated *supra*. Bot does not expressly disclose a method wherein a price comparison is performed on an identical item and a substantially identical item, and wherein a graded price is offered on the substantially identical item. Reuhl discloses a method wherein a price comparison is performed on an identical item and a substantially identical item, and wherein a graded price is offered on the substantially identical item (column 3, line 58 to column 4, line 6). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Bot to have included the limitations of Reuhl as discussed above in order to provide purchasing assistance to a buyer by supplying comparison pricing of goods by competitors (Reuhl: column 1, lines 5-15).

Response to Arguments

Applicant's arguments filed October 2, 2000 have been fully considered but they are not persuasive.

The Attorney argues that Bot does not disclose, teach or suggest the feature of "selectively determining, by at least one of the plurality of electronic stores functioning

as a "SmartStore", an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from at least one of the plurality of electronic stores learning a best offer price received by the CompShop from all of the plurality of electronic stores, as recited in claim 1 and similarly recited in claims 22-24.

The Examiner notes, paragraph 9 of Bot discloses a system wherein, "...<http://mysimon> will e-mail you whenever any online merchant lowers its price for a particular item to an amount you're willing to pay. Feeling frugal for about that \$150 (**static price**) pair of binoculars? No problem; sit back and wait until the market takes it down to \$99 (**modified price**). Then jump on it."

The Attorney further argues that Bot discloses a two-way interaction between a pricing Bot acting for the seller and a shopping Bot acting for the customer and, "...nowhere does Bot discloses a three-way interaction between customer, CompShop, and a seller, i.e., one of the plurality of electronic shops including at least one SmartStore in the claimed invention, in which a SmartStore selectively returns one of a static price and a modified price to the CompShop."

The Examiner further notes, paragraph 9 of Bot discloses a system wherein, "...<http://mysimon> (**CompShop**) will e-mail you (**customer**) whenever any online merchant (**Seller**) lowers its price for a particular item to an amount you're willing to pay. Feeling frugal for about that \$150 pair of binoculars? No problem; sit back and wait until the market takes it down to \$99. Then jump on it."

In reference to the Attorney's arguments concerning the Reuhl Reference, the attorney argues features against the references individually, one cannot show

nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

October 28, 2003



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600